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| 10/061,121      | 01/31/2002  | Katsuhisa Sakuma     | S004-4527           | 2245             |

7590 10/16/2003

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EXAMINER

NGUYEN, JUDY

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2861

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/061,121

Applicant(s)

SAKUMA, KATSUHISA

Examiner

Judy Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-15 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 13 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7, 8, 12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Amendment***

For future amendment to the claims, please note that all claims must be listed including alive or cancel claims and the status thereof.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Japan on 3/1/2001 and 7/27/2001. It is noted, however, that applicant has not filed certified copies of the 2001-057275 and 2001-227591 applications as required by 35 U.S.C. 119(b).

### ***Election/Restrictions***

Applicant's election of Species I in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

In addition, applicant has indicated that claim 7 is generic. The examiner respectfully disagrees for the reason set forth under the claim objections below. Applicant also

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indicated that claim 9 is read on the elected species. However, the examiner noted that only the description with respect to Figure 8 of Species III that talks about the net-like construction recited in claim 9. Furthermore, the description directed to the elected Species I does not talk about a nozzle plate cover as recited in the newly added claim 15. Hence, claims 9 and 15 will be withdrawn from consideration for being read on a non-elected species.

Claims 9-11, 13, and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

### ***Claim Objections***

Claim 7 is objected to because of the following informalities: applicant has elected Species I (Figures 1-4B) and indicated that claim 7 is read on the elected species. However, it is noted that the base plate 16 of the elected species **includes** a plurality of sidewalls that define a plurality of elongated ink chambers. There are no separate sidewalls extending from the base plate of this elected species. Claim 7, however, recites "a plurality of side walls **extending** from the base plate". For the walls to be **extending** from the base plate, the walls must be a separate feature than the element from which they extending. Hence, it is suggested that the recitation of "a base plate; a plurality of side walls extending from the base plate to define a plurality of elongated in

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chambers" be changed to "a base plate **including** a plurality of side walls defining a plurality of elongated in chambers" or equivalent so that it read on the elected species.

Appropriate correction is required.

In view of the above objection, the below rejection is interpreted according to the elected species.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The nozzle plate cover surrounding a peripheral edge of the nozzle plate is new matter since it was not originally described in the specification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 8, 12, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwamura (JP 10-315458).

Iwamura discloses all limitations of the claimed invention as follows:

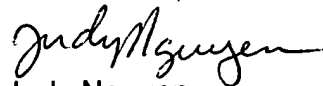
- A piezoelectric base plate (2)
- A plurality of side walls (see Figure 2) defining a plurality of elongated ink chambers (6)
- A nozzle plate (4) provided at a first longitudinal end of the base plate
- Electrodes (12)
- An ink chamber plate (5) having a common ink chamber
- A border portion member (7) having a plurality of through-holes
- Functional and structural recitations of the aforementioned features recited in the claims are clearly anticipated by Iwamura.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy Nguyen whose telephone number is (703) 305-7062. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ben Fuller can be reached on (703) 308-0079. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Judy Nguyen  
Primary Examiner  
October 6, 2003